United Nations A/HRC/WG.6/22/LBY/2

General Assembly

Distr.: General
27 February 2015

Original: English

Human Rights Council
Working Group on the Universal Periodic Review
Twenty-second session
4–15 May 2015

Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Libya

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.

GE. 15-03732 (E)
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Please recycle

I. Background and framework

A. Scope of international obligations[1]

International human rights treaties[2]

	Status during previous cycle	*Action after review*	*Not ratified not accepted*
Ratification, accession or succession	ICERD (1968)		ICCPR-OP 2
	ICESCR (1970)		OP-CAT
	ICCPR (1970)		CRPD (signature, 2008)
	CEDAW (1989)		ICPPED
	CAT (1989)		
	CRC (1993)		
	OP-CRC-AC (2004)		
	OP-CRC-SC (2004)		
	ICRMW (2004)		
	CRPD (signature, 2008)		
Reservations and/or declarations	ICERD (general declaration/ reservation: art. 22, 1968)		
	ICESCR (declaration, 1970)		
	ICCPR (declaration, 1970)		
	CEDAW (general reservation, 1995)		
	OP-CRC-AC (declaration, art. 3, para. 2, minimum age of recruitment 18, 2004)		
Complaints procedures, inquiries and urgent action[3]	ICCPR-OP 1 (1989)		ICERD, art. 14
	OP-CEDAW, art. 8 (2004)		OP-ICESCR
	CAT, art. 20 (1989)		ICCPR, art. 41
			CAT, arts. 21 and 22
			OP-CRC-IC
			ICRMW, arts. 76 and 77
			OP-CRPD
			ICPPED

Other main relevant international instruments

	Status during previous cycle	*Action after review*	*Not ratified*
Ratification, accession or succession	Convention on the Prevention and Punishment of the Crime of Genocide		Rome Statute of the International Criminal Court
	Conventions on stateless persons[4]		Conventions on refugees[8]
	Geneva Conventions of 12 August 1949 and Additional Protocols I and II[5]		ILO Conventions Nos. 169 and 189[9]
	Palermo Protocol[6]		Additional Protocol III to the 1949 Geneva Conventions[10]
	ILO fundamental conventions[7]		
	UNESCO Convention against Discrimination in Education		

1. In 2015, the United Nations High Commissioner for Human Rights recommended that Libya take all necessary steps to ratify OP-CAT, ICPPED, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and OP-ICESCR and withdraw its reservations to CEDAW.[11]

2. The Office of the United Nations High Commissioner for Refugees (UNHCR) recommended that Libya accede to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol.[12]

B. Constitutional and legislative framework

3. The High Commissioner for Human Rights recommended that Libya ensure full support to the Constitution Drafting Assembly and an inclusive and consultative drafting process, leading to a constitution that was fully compliant with international human rights standards, safeguarding dignity, non-discrimination, equality and human rights for all.[13]

4. In September 2014, the Secretary-General stated that much remained to be done to deal with unresolved issues regarding the participation of the Amazigh community, assert the independence of the constitutional process and protect it against the risks of intimidation and violence.[14]

5. The International Commission of Inquiry (COI) on Libya recommended ensuring that the future Constitution of Libya incorporated international human rights law defined in the human rights treaties ratified by Libya, undertaking legislative reform to incorporate international crimes into the Criminal Code, and repealing any statutory limitations applying to such crimes.[15]

C. Institutional and human rights infrastructure and policy measures

6. In December 2011, a decree was adopted establishing the National Council for Civil Liberties and Human Rights (NCCLHR),[16] which effectively began operating in 2013.[17] The High Commissioner for Human Rights noted that the establishment of NCCLHR was a positive development.[18]

7. The High Commissioner for Human Rights stated that the United Nations Support Mission in Libya (UNSMIL)/Office of the United Nations High Commissioner for Human Rights (OHCHR) had received reports of threats and intimidation targeting staff of

NCCLHR. In October 2014, a staff member had left Tripoli after receiving a threatening phone call. In November 2014, armed men in military uniform had reportedly arrived at the NCCLHR headquarters, locked the doors and publicly proclaimed that it was being closed by Libyan Dawn.[19]

Status of national human rights institutions[20]

National human rights institution	*Status during previous cycle*	*Status during present cycle*[21]
National Council for Civil Liberties and Human Rights	–	B (2014)

II. Cooperation with human rights mechanisms

8. On 25 February 2011, in its special session, the Human Rights Council (HRC) adopted resolution S-15/1, in which it decided to dispatch urgently an independent, international commission of inquiry to Libya to investigate all alleged violations of international human rights law.[22] The International Commission of Inquiry (COI) presented its first report to HRC in June 2011 and its final report in March 2012.[23] In its resolution 22/19, HRC encouraged Libya to implement fully the recommendations of COI.[24] The High Commissioner for Human Rights also encouraged the implementation of the recommendations set out in the report of COI.[25]

A. Cooperation with treaty bodies[26]

1. Reporting status

Treaty body	*Concluding observations included in previous review*	*Latest report submitted since previous review*	*Latest concluding observations*	*Reporting status*
CERD	March 2004	–	–	Combined eighteenth and nineteenth reports overdue since 2006
CESCR	November 2005	–	–	Third report overdue since 2007
HR Committee	October 2007	–	–	Fifth report overdue since 2010
CEDAW	January 2009	–	–	Combined sixth and seventh reports overdue since 2014
CAT	May 1999	–	–	Fourth report overdue since 2014 (initially due in 2002)
CRC	June 2003	–	–	Combined third and fourth reports overdue since 2008
				Initial OP-CRC-SC and OP-CRC-AC reports overdue since 2006
CMW	–	–	–	Initial report overdue since 2005

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

Treaty body	*Due in*	*Subject matter*	*Submitted in*
HR Committee	2008	Violence against women; adoption of the new penal code; limitations of the right to freedom of opinion and expression and revision of the Publication Act of 1972[27]	2009[28] and 2010[29]
CEDAW	2011	Temporary special measures for gender equality; and male guardianship over women[30]	Reminders sent in 2012 and 2013[31]

Views

Treaty body	*Number of views*	*Status*
HR Committee	10[32]	Further information requested[33]

B. Cooperation with special procedures[34]

	Status during previous cycle	*Current status*
Standing invitation	No	Yes
Visits agreed to in principle	Arbitrary detention	Disappearances
	Freedom of expression	Arbitrary detention
	Torture	Mercenaries
Visits requested	–	Migrants
		Violence against women
		Summary executions
Responses to letters of allegations and urgent appeals	During the period under review, 16 communications were sent. The Government replied to 3 of them.	

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

9. UNSMIL was established by the Security Council in September 2011, under the leadership of a Special Representative of the Secretary-General,[35] with a mandate to provide assistance in a number of areas, including supporting Libyan efforts to "promote the rule of law and monitor and protect human rights".[36] OHCHR continued to provide support to the human rights mandate of UNSMIL. The Director of the UNSMIL Human Rights, Transitional Justice and Rule of Law Division represented the High Commissioner in Libya.[37]

10. UNSMIL and OHCHR supported the efforts of Libya to build the capacity of institutions dealing with human rights, transitional justice and the rule of law and provided recommendations to Libya on establishing a robust legal framework; strengthening national human rights bodies; ensuring effective administration of justice; developing comprehensive transitional justice processes; and addressing the needs of social groups.[38]

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

11. The United Nations Country Team (UNCT) indicated that, in February 2013, the Supreme Court had annulled an article within Law No. 10/1984 on the Rules of Marriage, Divorce and their Effect, which had required men to obtain permission of the court if they were to marry a second wife. In April 2013, the Grand Mufti had issued a fatwa prohibiting women from travelling without a male guardian.[39]

12. UNCT stated that, while Law No. 24/2010 on Rules of Libyan Nationality granted Libyan nationality to anyone born in Libya to a Libyan mother and a father of unknown nationality, no legislation was in place to ensure the right of Libyan women married to men of a known foreign nationality to confer their Libyan nationality on their husbands or their children.[40]

13. UNHCR recommended that Libya ensure that mothers were able to pass their nationality to their children, regardless of the status or nationality of the child's father, and ensure the full and effective implementation of the obligations Libya had undertaken under the two statelessness conventions and general human rights instruments.[41]

14. UNHCR indicated that refugees and asylum seekers from Sub-Saharan Africa proved to be at greater risk of persistent discrimination.[42] They faced significant challenges in accessing civil registration of their newly born children. In particular, women from Sub-Saharan Africa who were not accompanied by men could be suspected of being prostitutes and face detention when delivering their babies at government hospitals. UNHCR recommended that Libya ensure access to birth registration for all children born in Libya.[43]

B. Right to life, liberty and security of the person

15. The High Commissioner for Human Rights recommended that Libya establish a moratorium on the use of the death penalty, aiming to abolish it. She further recommended that, pending abolition, Libya ensure full compliance with the restrictions prescribed, in particular, in article 6 of ICCPR.[44]

16. On 25 November 2014, the Secretary-General expressed his deep concern about the escalation of violence, including the air strikes in Tripoli and the Nafousa Mountains in the west, as well as in Benghazi and its environs in the east.[45] UNSMIL/OHCHR reported that fighting since May 2014 between armed groups across the country had resulted in hundreds of civilian deaths, mass displacement and a humanitarian crisis.[46]

17. UNCT stated that all parties to the conflicts since mid-2014 had used weapons such as small arms, GRAD rockets, mortars and anti-aircraft guns in populated areas. The nature of the weapons being used, the means by which they had been used, and the impact on civilians suggested that many of the attacks had been indiscriminate.[47]

18. The Special Representative of the Secretary-General for Libya urged all sides to the conflict to immediately cease armed hostilities.[48] The High Commissioner for Human Rights recommended that all armed groups comply fully with international humanitarian law, specifically with the principles of distinction, proportionality and precaution in attack. In particular, they must immediately cease all attacks on civilians and must take steps to protect civilians and fighters hors de combat. All armed groups must also desist from violations of international human rights law and humanitarian law and abuses of human rights, and remove from active duty those suspected of such actions.[49] In addition, the High Commissioner recommended that the Libyan authorities hold accountable, in accordance with international standards, all parties responsible for violations of international human rights and humanitarian law and abuses of human rights.[50]

19. The Secretary-General and the High Commissioner for Human Rights were gravely concerned at attacks targeting humanitarian workers, human rights defenders and media professionals.[51] According to UNCT, prominent cases since May 2014 included those of newspaper editor Muftah Abu Zeid, lawyer and human rights activist Salwa Bugaighis, and two young civil society activists, Tawfik Bensaud, 18, and Sami al-Kawafi, 17.[52]

20. In 2013, special procedures mandate holders shared their concern with regard to the alleged killing of a prominent political activist who had been shot dead outside Abu Ghoula mosque in Benghazi. Reportedly, the victim had previously been subjected to acts of intimidation and death threats in relation to his role as a political activist.[53]

21. UNSMIL/OHCHR indicated reports of the abduction of dozens of civilians by all sides to the conflict, solely for their actual or suspected tribal, family or religious affiliation, often as hostages in order to exchange them for others held by the opposing side. UNSMIL/OHCHR stated that their abduction might amount to enforced disappearance.[54]

22. UNCT stated that, in the wake of the 2011 conflict, thousands of persons remained missing, in addition to those who had been forcibly disappeared during the Qadhafi regime.[55] COI recommended that Libya encourage all parties involved in the conflict to divulge any information that they had on missing persons, and establish an independent investigation into the fate of all missing persons.[56]

23. The Secretary-General remained concerned about reports of continuing torture, deaths in custody, kidnapping and secret detentions by brigades nominally affiliated to the Ministry of Justice or the Ministry of Defence.[57] UNCT stated that torture had been widespread in many detention centres since the revolution, and it had continued since the outbreak of the internal conflicts in mid-2014.[58] UNSMIL had received allegations of torture and other abuses which were consistent with earlier patterns of ill-treatment of detainees.[59] In 2013, UNSMIL/OHCHR reported that torture was most frequent immediately upon arrest and during the first days of interrogation, as a means to extract confessions.[60] Detainees had died in circumstances strongly suggesting that torture had been the cause.[61]

24. UNCT noted that Law No. 10/2013 on Criminalizing Torture, Enforced Disappearances and Discrimination specified that torture, enforced disappearance and discrimination were crimes and remained punishable as such. The law was intended to ensure that the amnesty adopted in Law No. 38/2012 on Procedures Relating to the Transitional Phase would not extend to such serious human rights violations.[62]

25. In 2014, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent a communication concerning cases of alleged torture and ill-treatment during interrogation in the "Al-Habdha" Correction and Rehabilitation Institution in Tripoli. According to the information received, in one case, the victim had been arrested in a neighbouring country, where he had sought refuge, and had consequently been

extradited to Libya to be detained in the aforementioned institution, where he had been subjected to torture during interrogation.[63]

26. COI recommended that Libya end all torture or ill-treatment of detainees, and the use of unlawful interrogation methods.[64] The High Commissioner for Human Rights recommended that authorities must investigate all allegations of torture and other ill-treatment, and those found responsible must be removed from active duty and brought to justice.[65]

27. UNSMIL/OHCHR stated that, since 2012, the Government had sought to bring under the authority of the State the armed brigades which had emerged during the 2011 armed conflict, and which were in control of most detention facilities where torture took place. The Government had affiliated brigades to specific ministries, even though in many cases the brigades had retained actual control of the detention centres.[66]

28. UNCT indicated that detention centres under the control of the State had faced substantial difficulty in ensuring adequate supplies of food and medicine. The problem of prolonged detention and interrogation at the hands of armed groups without training in the handling of detainees remained severe.[67]

29. The High Commissioner for Human Rights recommended that Libya urgently address the situation of persons deprived of their liberty; those detained in connection with the recent conflict, as well as those held since the 2011 conflict, must be handed over to the justice system and all detention facilities handed over from armed groups to the effective control of the State.[68] He also recommended that Libya ensure that prison officials were provided with adequate resources and training to manage their facilities effectively, in line with international human rights standards.[69]

30. COI recommended that Libya ensure that conditions of detention complied with applicable international law, including the proper treatment of detainees, access to lawyers and family, and the ability to lodge complaints of torture and ill-treatment.[70]

31. The Secretary-General indicated that UNSMIL had worked closely with the Judicial Police[71] to establish a census of prison inmates and facilitate screening by public prosecutors. As a result, a list of over 6,200 inmates, including 10 children, had been drawn up. According to the list, only 10 per cent of the inmates had been tried.[72]

32. UNCT noted that Law No. 29/2013 on Transitional Justice established a 90-day deadline by which those being detained should either be charged or released, with a further 30 days provided in a subsequent amendment to the law. However, the judicial system had been unable to meet those deadlines.[73]

33. COI recommended that Libya charge detainees being held in connection with the conflict for their involvement in specific criminal acts, and release those against whom there was no such evidence.[74]

34. The High Commissioner for Human Rights noted that UNSMIL/OHCHR had received reports of children killed or maimed as a result of the violence, victims of attacks on schools and hospitals, and affected by the denial of humanitarian access.[75]

35. COI stated that sexual violence had played a significant role in provoking fear in various communities. Sexual torture had been used as a means to extract information from and to humiliate detainees.[76]

36. The Secretary-General noted that, in February 2014, the Council of Ministers had passed a decree to address the situation of victims of sexual violence, primarily women but also men, establishing a specialized fact-finding committee that would also determine reparations.[77] UNCT noted that, while the specialized committee had been established, there was no appropriate complaint mechanism, and there was limited access to health-care

services and support. In some instances of rape, women had been accused of adultery or encouraged to marry the perpetrator to protect their honour.[78]

37. UNCT indicated that Libya had no law on combating human trafficking. The legal framework, in particular the Penal Code, needed to be brought in line with the Palermo Protocol.[79]

C. Administration of justice, including impunity, and the rule of law

38. UNCT stated that, following the 17 February Revolution, the Supreme Judicial Council had abolished the State security courts, which had been the core element of a parallel judicial system used for purposes of political repression under the Qadhafi regime. The Supreme Judicial Council had also been reformed in order to bolster the independence of the judiciary. The Minister of Justice no longer served as the Council chair, and the judicial body was exclusively composed of judges.[80] UNCT also indicated that the General National Congress had amended the law on the status of the judiciary to allow for the election by peers of 11 out of 13 members of the Supreme Judicial Council.[81]

39. UNCT reported that, in April 2013, the General National Congress had adopted a law abolishing the jurisdiction of military courts over civilians. A reform of the Code of Criminal Procedures had commenced, but had never been completed.[82]

40. The Secretary-General stated that assaults and threats of violence against judges and prosecutors had continued to impede judicial work.[83] According to UNCT, by late 2013, courts had been suspended from functioning in the east, including in locations such as Derna, Benghazi and Sirte.[84] HRC, in resolution 25/37, condemned the assassination of judges and other members of the judiciary in Derna and Benghazi.[85]

41. The High Commissioner for Human Rights recommended that Libya resume building State institutions, in particular the armed forces, law enforcement and the judiciary, as soon as feasible; enhance security for prosecutors, judges and the courts as a priority to strengthen the rule of law; and establish a fair and transparent vetting and recruitment process for the Judicial Police.[86]

42. UNCT indicated that, in February 2011, the Security Council had referred the situation in Libya to the Prosecutor of the International Criminal Court. Four months later, the Court had issued arrest warrants against and requested the transfer to the Hague of Muammar Qadhafi, Saif al-Islam Qadhafi and Abdullah al-Senussi. To date, both Saif al-Islam Qadhafi and Abdullah al-Senussi had been unable to access legal counsel representing them before the International Criminal Court. The Appeals Chamber of the International Criminal Court had upheld the admissibility of the case against Saif al-Islam Qadhafi in May 2014, confirming that Libya must hand him over to the Court.[87]

43. The Secretary-General welcomed the reaffirmation by the Prosecutor of the International Criminal Court in July 2014 of her readiness to investigate and prosecute those who committed crimes under the Court's jurisdiction, irrespective of their official status or affiliation.[88] He underscored the need for proper legal representation for all defendants.[89]

44. The High Commissioner for Human Rights recommended that Libya ensure that all those responsible for human rights violations and abuses were brought to justice, with all the guarantees of a fair trial and due process; take all necessary measures to ensure a safe environment, free of intimidation, for any trial; and cooperate fully with the International Criminal Court by assisting its investigations and complying with its rulings.[90]

45. UNCT noted that the General National Congress had promulgated Law No. 1/2014 on the Care for Martyrs and Missing Persons of the 17 February Revolution. The law

provided reparation to the families of those killed or missing in the context of the revolution, although it specifically denied benefits to the families of those who had opposed the revolution.[91] The High Commissioner for Human Rights recommended revising the law on missing persons to ensure that benefits extended to all victims, regardless of affiliation, and establishing an independent and impartial commission on missing persons.[92]

46. UNCT indicated that the General National Congress had promulgated Law No. 29/2013 on Transitional Justice establishing a Victims Compensation Fund and providing for reparations. The United Nations had called on Libya to use that law to adopt a comprehensive approach to reparations and to avoid discrimination between different categories of victims.[93]

47. UNCT stated that the General National Congress had adopted in December 2013 a new law establishing a fact-finding committee to investigate the killings in Abu Salim Prison in 1996 and provide recommendations for reparations to the victims, but the committee had never been appointed.[94]

48. The High Commissioner for Human Rights condemned the attacks against human rights defenders, political activists and media professionals, which were taking place with impunity, with police officers, prosecutors and judges themselves being targeted by armed groups. He urged the authorities to take all possible measures to undertake prompt, thorough and impartial investigations, to hold those found responsible to account, and to ensure an effective remedy for victims. He added that the authorities should do everything in their power to ensure adequate protection of victims, witnesses and officials supporting the administration of justice.[95]

49. UNCT noted that Law No. 29/2013 on Transitional Justice established a new Fact-Finding and Reconciliation Commission which would address human rights violations committed under the former regime and since its fall.[96] The High Commissioner for Human Rights recommended that Libya bring the transitional justice process back on track, with priority to the appointment of qualified and independent members of the Board of the Fact-Finding and Reconciliation Commission, taking into account fair gender representation.[97]

D. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

50. In February 2015, the High Commissioner for Human Rights stated that the mass beheading of 20 Egyptian Coptic Christians and apparently another Christian man in Libya had been a vile crime targeting people on the basis of their religion, and that that was not the first time that Coptic Christians had been targeted in Libya. He indicated that murdering captives or hostages was prohibited under international law and Islamic law.[98]

51. UNCT indicated that religious sites had also been attacked; there had been numerous deliberate attacks from sectarian groups targeting Sufi marabout shrines since 2011.[99] The United Nations Educational, Scientific and Cultural Organization (UNESCO) expressed similar concerns.[100]

52. The High Commissioner for Human Rights stated that media professionals had been subjected to increasing attacks and abductions, which had limited freedom of expression and opinion and the dissemination of information.[101] UNESCO expressed similar concerns and indicated that the media sector had suffered from the prolonged conflict and instability, coupled with the introduction of repressive laws.[102]

53. According to UNESCO, the National Transitional Council had introduced Law No. 37/2012, which criminalized defamation against the State and its institutions, including

the Islamic religion, as well as any support for the former regime. The Supreme Court had ruled that Law No. 37/2012 was unconstitutional in June 2012.[103]

54. The High Commissioner for Human Rights and UNESCO noted amendments to the Penal Code through Law No. 5/2014, whereby defamation of the 17 February Revolution could be punishable by imprisonment up to 15 years.[104]

55. HRC, in resolution 25/37, urged Libya to take further steps to protect freedoms of expression, association and assembly by, inter alia reviewing Penal Code articles that undermined those freedoms.[105]

56. UNCT expressed concern about Law No. 13/2013 on Political and Administrative Isolation.[106] The Special Representative of the Secretary-General noted that the law had been adopted under threat by armed groups.[107] According to UNCT, the law detailed the grounds on which individuals associated with the Qadhafi regime should be excluded from public positions for ten years. The grounds were vague, far-reaching and disproportionate. Six challenges to the constitutionality of the law had been submitted to the Supreme Court, including by NCCLHR. The Court was due to issue a decision on the matter in February 2015.[108] The High Commissioner for Human Rights recommended that the law be revised to ensure that vetting criteria were precise, proportionate and fair.[109]

57. UNCT stated that the original draft law for the 60-member Constitution Drafting Assembly had contained no provision for special measures for women. Women's organizations had lobbied to get a block of 30 seats reserved, but the law had eventually been amended to include 6 reserved seats.[110] The High Commissioner for Human Rights and UNCT noted growing threats and attacks against women activists, which had contributed to women's reluctance to run for election.[111]

E. Right to social security and to an adequate standard of living

58. In November 2014, UNHCR indicated that the renewed fighting had increased the humanitarian needs of internally displaced persons (IDPs) and of communities affected by the fighting. The prices of food and basic items such as cooking fuel and wheat flour had reportedly risen steeply. In Tripoli, shortages of water, diesel, cooking gas and other essential items such as milk had been reported, as well as disruptive prolonged power cuts.[112]

F. Right to health

59. According to the World Health Organization, access to health services had become a major concern, mainly in Benghazi. Ongoing fighting had led to restrictions of movement for people and health workers. Hospitals in Benghazi were struggling to cope with the large numbers of casualties, and there was a shortage of medical professional due to the departure of foreign medical workers. There were extensive shortages of medicines and medical supplies.[113]

60. The High Commissioner for Human Rights indicated that, in Benghazi, the Hawari General Hospital had suspended operations due to the fighting, and that Ansar Al-Shari'a had temporarily occupied Al-Jalaa hospital and reportedly shelled a wing of the Benghazi Medical Centre. He had also received reports of the obstructed evacuation of injured persons and of impeded humanitarian assistance, as well as of the misuse of medical vehicles for military purposes.[114]

G. Right to education

61. The High Commissioner for Human Rights stated that schools had been extensively damaged by shelling, limiting access to education. Schools in Benghazi, Tripoli and other places had been closed and converted into makeshift shelters for internally displaced persons. Schools in the Warshafana areas and Nafusa Mountains were reportedly being used as bases by armed groups for launching attacks.[115]

H. Minorities and indigenous peoples

62. UNCT indicated that the General National Congress had adopted Law No. 18/2013 on the Rights of Cultural and Linguistic Components, in response to concerns raised by the Amazigh, Tabu and Tuareg populations. The law recognized the languages of the three communities as "linguistic and cultural components of Libyan society" and required the State to protect their cultural and linguistic heritage.[116]

63. UNCT stated that no seats had been reserved for minorities in the July 2012 elections to the General National Congress, although several constituencies had a majority population of the Amazigh, Tabu and Tuareg communities. There were also some electoral problems due to issues with citizenship for minorities in the south. The 2013 electoral law for the 60-member Constitution Drafting Assembly had reserved two seats each for the Amazigh, Tabu and Tuareg communities. However, the Amazigh had boycotted the February 2014 election, demanding that their language rights be guaranteed. The June 2014 elections for the House of Representatives had adopted the same approach as that used for the General National Congress elections in 2012. Several seats in the Kufra area remained vacant in the wake of tensions between the Tabu community in that area and their Arab neighbours.[117]

I. Migrants, refugees and asylum seekers

64. The Secretary-General noted the increasing numbers of asylum seekers, refugees and migrants attempting to reach Europe from Libya by sea. He commended the efforts of the Libyan Coast Guard and the navy of a neighbouring country in saving the lives of those in distress at sea. He indicated, however, that more effort was needed to prevent the unnecessary loss of life at sea.[118]

65. According to UNHCR, the scale of migration by sea from Libya had been highest in 2014.[119] UNHCR stated that the border management strategy of Libya focused solely on border control at the expense of a more comprehensive approach that recognized the different protection needs and rights of mixed-migrant populations.[120]

66. Four special procedures mandate holders sent a communication concerning the alleged mistreatment of foreign nationals, mainly from sub-Saharan Africa. According to the information received, government officials, militias and, in some cases, ordinary citizens motivated by xenophobia and misguided fears about diseases, had detained foreign nationals on an almost daily basis, in holding centres. The conditions in most of the holding centres fell short of international standards, and at times amounted to cruel, inhuman and degrading treatment. It was further reported that migrants were being forcibly tested for diseases and then deported.[121]

67. The Secretary-General also expressed serious concern about the detention of asylum seekers, refugees and migrants, including children. He stated that the arbitrary detention of non-nationals had remained widespread and prolonged. Those detained did not usually have the means to challenge their detention.[122] The High Commissioner for Human Rights and

UNCT expressed similar concerns.[123] UNHCR recommended that Libya ensure that detention of persons in need of international protection was used only as a measure of last resort, and apply alternatives to detention.[124]

68. The Secretary-General stated that the lack of an adequate asylum system and a proper protection framework, coupled with the widespread use of detention in deplorable conditions, were factors pushing mixed migration movements towards Europe. There was an urgent need to introduce a registration and status determination process for refugees in close cooperation with UNHCR and to formalize the role of UNHCR.[125] The High Commissioner for Human Rights and UNCT expressed similar concerns.[126]

69. According to UNCT, while article 10 of the Constitutional Declaration referred to the right to asylum, there had yet to be any implementing regulations or measures put in place to guarantee that right.[127] UNHCR recommended that Libya adopt national asylum legislation and procedures in compliance with relevant international standards and UNHCR guidelines.[128]

J. Internally displaced persons

70. The High Commissioner for Human Rights stated that, prior to the violence in 2014, roughly 60,000 Libyans had remained internally displaced, mainly as a result of the 2011 conflict. Those affected included persons from Mashashiya Gualish and Jaramla S'ian, as well as Tabu and Tuareg communities. The inhabitants of the town of Tawergha were the largest group of internally displaced, totalling about 30,000. They had been forcibly displaced from their own town in August 2011 by armed groups from Misrata, following allegations of grave human rights abuses committed in Misrata by pro-Qadhafi forces from Tawergha.[129] UNCT indicated that, since that time, Tawerghans had been unable to return to their town and had been subjected to continuous harassment. Members of armed groups had carried out raids against IDP camps for Tawerghans.[130]

71. UNCT indicated that the situation of internal displacement had deteriorated further as a result of the conflict since July 2014.[131] In mid-November, UNHCR estimated that approximately 400,000 people had been internally displaced by the fighting.[132]

72. The High Commissioner for Human Rights recommended that Libya develop a comprehensive strategy to address the issue of displaced persons. Those displaced — including since 2011 — must be allowed to return to their homes in safety and dignity. In the interim, they must be given protection and humanitarian assistance, in accordance with the Guiding Principles on Internal Displacement.[133] HRC, in resolution 25/37, urged Libya to strengthen efforts to end the continued arbitrary detention, torture and harassment of displaced persons.[134] COI recommended that Libya take measures to stop and prevent further attacks against the Tawerghans and other targeted communities.[135]

K. Human rights and counter-terrorism

73. The High Commissioner for Human Rights and UNCT stated that Law No. 3/2014 on Counter-terrorism adopted a broad definition of terrorism. The High Commissioner expressed concern that such an overly broad definition appeared to be in violation of the principle of legality and carried the potential for arbitrary and discriminatory enforcement.[136]

Notes

[1] Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, http://treaties.un.org/. Please also refer to the United Nations compilation on Libya from the previous cycle (A/HRC/WG.6/9/LBY/2).

[2] The following abbreviations are used in UPR documents:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure;
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance.

[3] Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: ICPPED, art. 30.

[4] 1954 Convention relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness.

[5] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/IHL.

[6] Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[7] International Labour Organization, Forced Labour Convention, 1930 (No. 29); Abolition of Forced Labour Convention, 1957 (No. 105); Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); Right to Organise and Collective Bargaining Convention, 1949 (No. 98);

Equal Remuneration Convention, 1951 (No. 100); Discrimination (Employment and Occupation) Convention, 1958 (No. 111); Minimum Age Convention, 1973 (No. 138); Worst Forms of Child Labour Convention, 1999 (No. 182).

[8] 1951 Convention relating to the Status of Refugees and its 1967 Protocol.

[9] International Labour Organization, Indigenous and Tribal Peoples Convention, 1989 (No. 169); and Domestic Workers Convention, 2011 (No. 189).

[10] Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, at https://www.icrc.org/IHL.

[11] Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Libya and on related technical support and capacity-building needs (A/HRC/28/51), para. 84 (i). See also Technical assistance for Libya in the field of human rights:

[12] Report of the United Nations High Commissioner for Human Rights (A/HRC/25/42), para. 66 (g).

[13] UNHCR submission for the UPR of Libya, p. 3.

[14] A/HRC/28/51, para. 84 (d).

[15] Report of the Secretary-General on the United Nations Support Mission in Libya (S/2014/653), para. 95.

[16] Report of the International Commission of Inquiry on Libya (A/HRC/19/68), paras. 128 (a) and (b).

[17] OHCHR Report 2011, p. 374.

[18] OHCHR Report 2013, p. 325.

[19] A/HRC/25/42, para. 7.

[20] A/HRC/28/51, para. 81.

[21] According to article 5 of the rules of procedure of the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) Sub-Committee on Accreditation, the classifications for accreditation used by the Sub-Committee are: A: Voting Member (fully in compliance with each of the Paris Principles), B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination), C: No Status (not in compliance with the Paris Principles).

[22] See the chart of the accreditation status of national human rights institutions granted, as of 30 December 2014, by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). Available from http://nhri.ohchr.org/EN/Documents/Accreditation%20Status%20Chart.pdf.

[23] Resolution adopted by the Human Rights Council: Situation of human rights in the Libyan Arab Jamahiriya (A/HRC/RES/S-15/1), para. 11.

[24] A/HRC/25/42, para. 3.

[25] Resolution adopted by the Human Rights Council on technical assistance for Libya in the field of human rights (A/HRC/RES/22/19), para. 13 and A/HRC/25/42, para. 3.

[26] A/HRC/25/42, para. 67.

[27] The following abbreviations are used in UPR documents:

CERD	Committee on the Elimination of Racial Discrimination;
CESCR	Committee on Economic, Social and Cultural Rights;
HR Committee	Human Rights Committee;
CEDAW	Committee on the Elimination of Discrimination against Women;
CAT	Committee against Torture;
CRC	Committee on the Rights of the Child;
CMW	Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families.

[28] Concluding observations of the Human Rights Committee (CCPR/C/LBY/CO/4), para. 31.

[29] Information received from the Libyan Arab Jamahiriya on follow-up to the concluding observations of the Human Rights Committee (CCPR/C/LBY/CO/4/Add.1).

[30] Additional information received from the Libyan Arab Jamahiriya on follow-up to the concluding observations of the Human Rights Committee (in Arabic only). Available from http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LBY/INT_CCPR_AFR_LBY_19232_A.pdf (accessed 19 January 2015).

[31] Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/LBY/CO/5), para. 50.

[31] Letters from CEDAW to the Permanent Mission of Libya to the United Nations Office and other international organizations in Geneva, dated 17 September 2012 and 27 August 2013, available from http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LBY/INT_CEDAW_FUL_LBY_19213_E.pdf; and http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/LBY/INT_CEDAW_FUL_LBY_15064_E.pdf(accessed 13 January 2015).

[32] CCPR/C/99/D/1640/2007, *El Abani* v. *Libyan Arab Jamahiriya*, 26 July 2010; CCPR/C/100/D/1776/2008, *Bashasha* v. *Libyan Arab Jamahiriya*, 20 October 2010; CCPR/C/100/D/1751/2008, *Aboussedra et al.* v. *Libyan Arab Jamahiriya*, 25 October 2010; CCPR/C/104/D/1755/2008/Rev.1, *El Hagog Jumaa* v. *Libya*, 19 March 2012; CCPR/C/104/D/1782/2008, *Aboufaied* v. *Libya*, 21 March 2012; CCPR/C/106/D/1804/2008, *Il Khwildy* v. *Libya*, 1 November 2012; CCPR/C/106/D/1805/2008, *Benali* v. *Libya*, 1 November 2012; CCPR/C/108/D/1832/2008, *Al Khazmi et al.* v. *Libya*, 18 July 2013; CCPR/C/104/D/1880/2009 and Corr.1, *Nenova et al.* v. *Libya*, 20 March 2012; and CCPR/C/110/D/2006/2010, *Almegaryaf and Matar* v. *Libya*, 21 March 2014.

[33] CCPR/C/99/D/1640/2007, para. 10; CCPR/C/100/D/1776/2008, para. 10; CCPR/C/100/D/1751/2008, para. 10; CCPR/C/104/D/1755/2008/Rev.1, para. 11; CCPR/C/104/D/1782/2008, para. 10; CCPR/C/106/D/1804/2008, para. 10; CCPR/C/106/D/1805/2008, para. 9; CCPR/C/108/D/1832/2008, para. 11; CCPR/C/104/D/1880/2009 and Corr.1, para. 10; and CCPR/C/110/D/2006/2010, para. 10.

[34] For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.

[35] Security Council Resolution 2009 (2011) (S/RES/2009 (2011)), para. 12, and OHCHR Report 2011, pp. 373–374.

[36] Security Council Resolution 2144 (2014) (S/RES/2144 (2014)), para. 6 (b), and United Nations Support Mission in Libya and the Office of the United Nations High Commissioner for Human Rights, "Update on Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya", 23 December 2014, p. 2. Available from www.ohchr.org/Documents/Countries/LY/UNSMIL_OHCHRJointly_report_Libya_23.12.14.pdf.

[37] A/HRC/28/51, para. 1.

[38] A/HRC/25/42, p. 1. See also OHCHR Report 2013, pp. 324–325, OHCHR Report 2012, pp. 276–277, and OHCHR Report 2011, pp. 373–375.

[39] UNCT submission for the UPR of Libya, p. 1.

[40] Ibid., p. 1.

[41] UNHCR submission for the UPR of Libya, p. 5.

[42] Ibid., p. 2.

[43] Ibid., p. 6.

[44] A/HRC/25/42, para. 66 (h).

[45] Press release dated 25 November 2014, "Deeply Concerned by Escalation of Violence in Libya, Secretary-General Urges All Libyans to 'Take the Brave Decisions Necessary to Spare Their Country'" (SG/SM/16372-AFR/3028). Available from www.un.org/press/en/2014/sgsm16372.doc.htm.

[46] "Update on Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya", p. 1. See also United Nations Support Mission in Libya and the Office of the United Nations High Commissioner for Human Rights, "Overview of Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya", 4 September 2014, p. 2.

[47] UNCT submission for the UPR of Libya, p. 2.

[48] Press release dated 23 December 2014, "Persistent fighting kills hundreds, causes mass displacement across Libya – UN report". Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15449&LangID=E.

[49] A/HRC/28/51, para. 83 (a).

[50] A/HRC/28/51, para. 83 (b).

[51] S/2014/653, para. 97 and press release dated 14 October 2014, "UN rights chief Zeid condemns attacks on human rights defenders in Libya". Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15168&LangID=E.

[52] UNCT submission for the UPR of Libya, p. 2.

[53] Communications report of Special Procedures: Communications sent, 1 June to 30 November 2013; Replies received, 1 August 2013 to 31 January 2014 (A/HRC/25/74), p. 62.
[54] "Update on Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya", p. 7.
[55] UNCT submission for the UPR of Libya, p. 2.
[56] A/HRC/19/68, para. 127 (h).
[57] S/2014/653, para. 97.
[58] UNCT submission for the UPR of Libya, p. 2.
[59] "Update on Violations of International Human Rights and Humanitarian Law During the Ongoing Violence in Libya", p. 7.
[60] United Nations Support Mission in Libya and Office of the United Nations High Commissioner for Human Rights, "Torture and Deaths in Detention in Libya", October 2013, p. 2.
[61] Ibid., p. 16.
[62] UNCT submission for the UPR of Libya, p. 3.
[63] Communications report of Special Procedures: Communications sent, 1 March to 31 May 2014; Replies received, 1 May to 31 July 2014 (A/HRC/27/72), p. 23.
[64] A/HRC/19/68, para. 127 (e).
[65] A/HRC/28/51, para. 84 (a).
[66] "Torture and Deaths in Detention in Libya", p. 2.
[67] UNCT submission for the UPR of Libya, p. 2.
[68] A/HRC/28/51, para. 84 (a).
[69] A/HRC/28/51, para. 84 (c).
[70] A/HRC/19/68, para. 127 (d).
[71] The prison service in Libya, under the Ministry of Justice. See "Torture and Deaths in Detention in Libya", p. 5.
[72] S/2014/653, para. 51.
[73] UNCT submission for the UPR of Libya, pp. 2–3.
[74] A/HRC/19/68, para. 127 (c).
[75] A/HRC/28/51, para. 26.
[76] A/HRC/19/68, para. 70.
[77] S/2014/653, para. 58.
[78] UNCT submission for the UPR of Libya, p. 1.
[79] Ibid., p. 3.
[80] Ibid., p. 3.
[81] Ibid., p. 3.
[82] Ibid., p. 3.
[83] S/2014/653, para. 53.
[84] UNCT submission for the UPR of Libya, p. 3.
[85] Resolution adopted by the Human Rights Council on technical assistance for Libya in the field of human rights (A/HRC/RES/25/37), para. 6.
[86] A/HRC/28/51, para. 84 (c).
[87] UNCT submission for the UPR of Libya, p. 4.
[88] S/2014/653, para. 92.
[89] S/2014/653, para. 98.
[90] A/HRC/28/51, paras. 84 (g) and (h).
[91] UNCT submission for the UPR of Libya, p. 2.
[92] A/HRC/28/51, para. 84 (f).
[93] UNCT submission for the UPR of Libya, pp. 3–4.
[94] Ibid., p. 5.
[95] Press release dated 14 October 2014, "UN rights chief Zeid condemns attacks on human rights defenders in Libya". Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15168&LangID=E.
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[99] UNCT submission for the UPR of Libya, p. 5.
[100] UNESCO submission for the UPR of Libya, para. 28.
[101] A/HRC/28/51, para. 40.
[102] UNESCO submission for the UPR of Libya, para. 16.
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[104] OHCHR, Briefing notes on Libya and Nigeria dated 18 February 2014. Available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14257&LangID=E, and UNESCO submission for the UPR of Libya, para. 12.
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[106] UNCT submission for the UPR of Libya, p. 5.
[107] Security Council Briefing dated 14 March 2013 by Special Representative of the Secretary-General and Head of UNSMIL, Tarek Mitri, para. 10. Available from http://unsmil.unmissions.org/Portals/unsmil/Documents/SRSG%20Mitri%20Briefing%20to%20UN%20Security%20Council%20on%20Libya%2014.3.2013.pdf. See also UNCT submission for the UPR of Libya, p. 5 and Security Council Briefing dated 18 June 2013 by Special Representative of the Secretary-General and Head of UNSMIL, Tarek Mitri, p. 3. Available from http://unsmil.unmissions.org/Portals/unsmil/Documents/SC%20Briefing%20June%202013%20_12%20June%2013_%20check%20against%20delivery.pdf.
[108] UNCT submission for the UPR of Libya, p. 5.
[109] A/HRC/28/51, para. 84 (f).
[110] UNCT submission for the UPR of Libya, p. 6.
[111] A/HRC/28/51, paras. 21–22 and UNCT submission for the UPR of Libya, p. 6.
[112] UNHCR, *UNHCR Position on Returnees to Libya*, November 2014, para. 9. Available from www.refworld.org/country,COI,,,LBY,,54646a494,0.html.
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[114] A/HRC/28/51, para. 16.
[115] A/HRC/28/51, para. 28.
[116] UNCT submission for the UPR of Libya, p. 6.
[117] Ibid., p. 6–7.
[118] S/2014/653, para. 99.
[119] UNHCR submission for the UPR of Libya, p. 2.
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[121] A/HRC/25/74, p. 39.
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[123] A/HRC/28/51, paras. 32–34 and UNCT submission for the UPR of Libya, p. 7.
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[125] S/2014/653, para. 64.
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[127] UNCT submission for the UPR of Libya, p. 7.
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[132] UNHCR News Stories, 14 November 2014, "More than100,000 Libyans flee fighting over past month". Available from www.unhcr.org/5465fdb89.html.
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